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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Administrative Appeals Office (AAO)
20 Massachusetts Ave., N.W., MS 2090
Washington, DC 20529-2090



U.S. Citizenship
and Immigration
Services

B5

Date: Office: TEXAS SERVICE CENTER

FILE:

FEB 29 2012

IN RE: Petitioner:
Beneficiary:

PETITION: Immigrant petition for Alien Worker as a Professional Holding an Advanced Degree or an Alien of Exceptional Ability pursuant to section 203(b)(2) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(2)

ON BEHALF OF PETITIONER:

INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office in your case. All of the documents related to this matter have been returned to the office that originally decided your case. Please be advised that any further inquiry that you might have concerning your case must be made to that office.

If you believe the law was inappropriately applied by us in reaching our decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. The specific requirements for filing such a request can be found at 8 C.F.R. § 103.5. All motions must be submitted to the office that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion, with a fee of \$630. Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires that any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you,

Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The Director, Texas Service Center, denied the employment-based immigrant visa petition. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The petitioner is a staffing agency. It seeks to employ the beneficiary permanently in the United States as a physical therapist-Level II. The petitioner seeks to classify the beneficiary as an alien worker pursuant to section 203(b)(2) of the Immigration and Nationality Act, (the Act), 8 U.S.C. § 1153(b)(2), as a professional holding an advanced degree. The director determined that the petitioner had not established that the beneficiary possesses an advanced degree or a foreign equivalent degree or in the alternative a United States baccalaureate degree or a foreign equivalent degree and at least five years of post-baccalaureate experience in the specialty as required by 8 C.F.R. § 204.5(k)(3)(i). The director further determined that the petitioner had failed to establish its continuing ability to pay the proffered wage since the priority date. Therefore, the director denied the petition accordingly.

Review of U.S. Citizenship and Immigration Services (USCIS) records indicates that the alien filed a Form I-485 Application to Adjust Status, receipt number [REDACTED] which was approved on December 28, 2009. Because the alien has adjusted to lawful permanent resident status, further pursuit of the matter at hand is moot.

ORDER: The appeal is dismissed based on the alien's adjustment to lawful permanent resident status.